

FY2010 Supplemental Appropriations for Agriculture

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Summary

Two separate bills are advancing in the 111th Congress that could provide nearly \$4 billion of supplemental funds for agricultural programs in FY2010. The agricultural provisions in these bills have a relatively small funding impact compared with the nonagricultural provisions in the bills.

H.R. 4213 (commonly known as the “tax extenders” bill) would provide up to \$3.6 billion for agriculture-related programs. The House and Senate are trading amendments to reconcile differences between each chamber’s version of the bill. The most recent House-passed version from May 28, 2010, includes \$1.48 billion for agricultural disaster assistance, \$1.15 billion for a settlement of the *Pigford* lawsuit against the U.S. Department of Agriculture (USDA), and \$1.06 billion to extend tax provisions for biodiesel and conservation. The Senate-passed version from March 10, 2010, does not contain funding for the *Pigford* settlement, but does include the other provisions. Difficulty reaching agreement over the budget impact of the bill, and the need for offsets rather than emergency spending, may be jeopardizing the prospects that some of the agriculture provisions will remain in the bill.

H.R. 4899 (a supplemental appropriations bill for war spending and disaster response) would provide relatively smaller appropriations for other agricultural programs, as well as rescind prior appropriations from various agricultural accounts. The House and Senate are trading amendments to reconcile difference between each chamber’s version of the bill. The most recent House-passed version from July 1, 2010, contains \$1.4 billion for agriculture before rescissions, including \$1.15 billion for the *Pigford* settlement (duplicated from H.R. 4213 because of procedural uncertainty), \$150 million for international food aid (P.L. 480 Food for Peace), \$50 million for food purchases in a domestic nutrition assistance program (The Emergency Food Assistance Program, TEFAP), \$32 million for the farm loan program (to support an additional \$950 million of loans), \$18 million for emergency forest restoration, and additional authorities to raise fees for the Section 502 rural housing loan guarantee program. The Senate-passed version from May 27, 2010, contains \$200 million for agriculture before rescissions, including identical provisions for the loan programs and forestry, but does not have the *Pigford* or TEFAP funding.

Rescissions from agriculture programs are significant in the most recent House-passed version of H.R. 4899, totaling \$1.0 billion, and are much larger than in the Senate-passed bill. The House bill from July 1 would rescind \$487 million from reserve funds for the Supplemental Nutrition Program for Women, Infants, and Children (WIC), \$422 million from rural development (including \$300 million of rural broadband funding), and \$70 million from unobligated balances from the Natural Resources Conservation Service. Both the House and Senate bills would offset \$50 million by limiting mandatory outlays for the Biomass Crop Assistance Program (BCAP).

Both H.R. 4213 and H.R. 4899 await further floor action to resolve differences between the chambers.

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Two separate bills are advancing in the 111th Congress that together could provide nearly \$4 billion of supplemental funds for agricultural programs.¹ **Table 1** shows the agriculture-related provisions in these bills—H.R. 4213, commonly known as the “tax extenders” bill; and H.R. 4899, a supplemental appropriations bill for war spending and disaster response.

Table 1. Proposed FY2010 Supplemental Appropriations for Agriculture
(budget authority in millions of dollars)

Agricultural Provisions	H.R. 4213		H.R. 4899	
	House-passed	Senate-passed	House-passed	Senate-passed
Latest action	5/28/2010	3/10/2010	7/1/2010	5/27/2010
“Tax extenders bill”				
Agricultural disaster assistance	1,479	1,479		
<i>Pigford</i> discrimination lawsuit settlement	1,150	0	1,150	0
Bio-diesel tax credit extension	868	868		
Conservation tax deduction extension	190	190		
“Supplemental appropriations bill”				
P.L. 480 Title II grants (Haiti earthquake)			150	150
The Emergency Food Assistance Program (TEFAP)			50	0
Section 502 rural housing loans			fees	fees
(Section 502: guaranteed loan authority)			697	697
Farm loan program: loan subsidy			32	32
(Farm loans: loan authority)			950	950
Emergency forest restoration			18	18
Subtotal agriculture appropriations			1,400	200
Rescission from WIC supplemental nutrition in ARRA			-362	0
Rescission from rural broadband in ARRA			-300	0
Rescission from WIC supplemental nutrition program			-125	0
Rescission from Rural Development unobligated balances			-122	0
Rescission from NRCS unobligated balances			-70	0
Limit on Biomass Crop Assistance (BCAP)			-50	-50
Subtotal agriculture rescissions			-1,029	-50
Total for agriculture	3,687	2,537	371	150

Source: Compiled by CRS from H.R. 4213, H.R. 4899, and H.Res. 1500.

Notes: For loan programs, budget authority (loan subsidy) reflects the cost of making loans, such as interest subsidies and default. Loan authority reflects the amount of loans that an agency may make or guarantee.

¹ The regular FY2010 appropriation for agriculture (P.L. 111-80) provided a total of \$121 billion, including \$23 billion in discretionary appropriations. See CRS Report R40721, *Agriculture and Related Agencies: FY2010 Appropriations*.

The tax extenders bill (H.R. 4213) would provide comparatively large amounts totaling up to \$3.6 billion for agriculture-related programs. Both the House and Senate have passed versions of the bill. Rather than resolving differences in a conference committee, the House and Senate are trading substitute amendments.² The House-passed version from May 28, 2010, includes \$1.48 billion for agricultural disaster assistance, \$1.15 billion for a settlement of the *Pigford* lawsuit against the U.S. Department of Agriculture (USDA) for past racial discrimination, \$868 million to extend biodiesel tax credits for one year, and \$190 million to extend a conservation tax deduction for one year. The Senate-passed version from March 10, 2010, does not contain funding for the *Pigford* settlement, but does include the other provisions, which total \$2.5 billion.

The other measure, the war supplemental appropriations bill (H.R. 4899), would provide smaller appropriations for other agricultural programs, as well as rescind prior appropriations from various agricultural accounts. The House and Senate are trading amendments to reconcile difference between each chamber's version of the bill. The most recent House-passed version, from July 1, 2010, contains \$1.4 billion for agriculture before rescissions, including \$1.15 billion for the *Pigford* settlement (duplicated from H.R. 4213 because of procedural uncertainty about whether *Pigford* will remain in the tax extenders bill), \$150 million for P.L. 480 Food for Peace, \$50 million for The Emergency Food Assistance Program (TEFAP), \$32 million for the farm loan program to support an additional \$950 million of loans, \$18 million for emergency forest restoration, and additional authorities to raise fees for the Section 502 rural housing loan guarantee program. The Senate-passed version from May 27, 2010, contains \$200 million for agriculture before rescissions, including identical provisions for the loan programs and forestry, but does not have the *Pigford* or TEFAP funding.

Rescissions from agriculture programs are significant in the most recent House-passed version of H.R. 4899, totaling \$1.0 billion. The House bill would rescind \$487 million from reserve funds for the Supplemental Nutrition Program for Women, Infants, and Children (WIC), \$422 million from rural development (including \$300 million of rural broadband funding from the American Recovery and Reinvestment Act), and \$70 million from unobligated balances from the Natural Resources Conservation Service. Both the House and Senate bills would offset \$50 million by limiting mandatory outlays for the Biomass Crop Assistance Program (BCAP). After rescissions, the net cost of the agriculture provisions is \$371 million in the most recent House-passed version of H.R. 4899, and \$150 million in the Senate-passed version.

Both bills await further floor action to resolve differences between the chambers.

Agriculture in the Tax Extenders Bill (H.R. 4213)

In December 2009, the original House-passed version of the “tax extenders” bill, H.R. 4213, had two agricultural-related tax provisions:

- **Biodiesel Tax Credits.** Section 401 would extend until December 31, 2010, retroactively, the expiration date for three biodiesel tax credits (biodiesel tax credit, small agri-biodiesel producer credit, and renewable diesel tax credit). These credits expired on December 31, 2009. The Joint Tax Committee estimates that these extensions would cost \$634 million in FY2010 and \$235 million in FY2011.³

² For more on the procedural aspects of conference committees and trading amendments to resolve differences, see CRS Report R41003, *Amendments Between the Houses: Procedural Options and Effects*, by Elizabeth Rybicki.

³ For more background on the biodiesel tax credits, see CRS Report R40110, *Biofuels Incentives: A Summary of Federal Programs*, by Brent D. Yacobucci.

- **Conservation Tax Deduction.** Section 131 of the original House-passed bill would extend until December 31, 2010, retroactively, the expiration date for contributions of capital gain real property made for a qualified conservation purpose. A previous extension in the 2008 farm bill expired on December 31, 2009. The Joint Tax Committee estimates that the provision will cost \$23 million in FY2010, and \$190 million over 10 years.⁴

The Senate-passed version from March 10, 2010 (H.R. 4213, a Senate amendment to the House bill), includes both of the tax provisions above, plus emergency agricultural disaster assistance.

- **Agricultural Disaster Assistance.** Section 245 of the Senate-passed version of H.R. 4213 would provide \$1.48 billion of agricultural disaster assistance to be paid from the Commodity Credit Corporation (CCC). The assistance includes about \$950 million in direct payments to producers of program crops⁵ for 2009 crop losses in counties designated as primary natural disaster areas. Unlike prior-year disaster assistance, payments would be available for losses as small as 5%. Payments also would be allowed for producers with losses for specialty crops (a \$300 million grant program to states), cottonseed (\$42 million), and aquaculture (\$25 million), as well as for a Hawaiian sugarcane cooperative (\$21 million). Poultry producers would be allowed no-interest emergency loans for losses due to contract terminations with poultry integrators (an unspecified amount of loans supported by \$75 million of budget authority). Also, the bill provides an additional \$50 million for grazing losses in 2009 by altering the payment criteria for livestock forage disaster payments. USDA would receive \$10 million for administrative costs. The creation of “permanent” agricultural disaster programs (e.g., SURE, the Supplemental Revenue Assistance Payments Program) in the 2008 farm bill was meant to forestall the need for this type of *ad hoc* disaster assistance.⁶
- **Biodiesel Tax Credits.** Section 102 of the Senate-passed version contains the same extension to December 31, 2010, as the House version above.
- **Conservation Tax Deduction.** Section 114 of the Senate-passed version contains the same extension to December 31, 2010, as the House version above.

Instead of going to a conference committee, a subsequent House amendment to the Senate amendment was passed by the House on May 28, 2010, to address differences between the chambers. It contains essentially the same agricultural disaster assistance and both of the tax extensions, and adds money for a settlement of the *Pigford* discrimination case against USDA.

- **Agricultural Disaster Assistance.** Section 604 of the House-passed amendment provides effectively identical disaster relief language as in the Senate-passed version above.
- **Pigford Settlement.** Section 608 of the House-passed amendment provides \$1.15 billion of discretionary funds for a final settlement of the *Pigford* lawsuit against USDA for past racial discrimination in the farm loan programs. This appropriation supplements \$100 million of mandatory funds that were provided

⁴ For more background on the conservation tax deduction, see CRS Report RL32367, *Certain Temporary Tax Provisions Scheduled to Expire in 2009 (“Extenders”)*, by James M. Bickley.

⁵ Crops known as “covered commodities” (e.g., corn, soybeans, wheat, cotton, rice, among others), and peanuts.

⁶ For more discussion of the disaster provisions, see the last section of CRS Report RS21212, *Agricultural Disaster Assistance*, by Dennis A. Shields and Ralph M. Chite.

in the 2008 farm bill, and thus would provide a total of \$1.25 billion. The 2008 farm bill permitted any claimant in the original *Pigford* decision from 1999 who had not previously obtained a determination to petition in civil court for a determination. On February 18, 2010, UDSA and the Department of Justice announced a \$1.25 billion settlement of these so-called *Pigford II* claims. The Administration requested the funds shortly after the settlement in February, but the House amendment to H.R. 4213 posted on May 20 would be the first bill to provide funds. A March 31, 2010, deadline for Congress to appropriate \$1.15 billion has passed, giving the plaintiffs a right to void the February settlement. But because the settlement is a priority for USDA and the White House, and efforts are proceeding for the appropriation, plaintiffs have not exercised their right to void the settlement.⁷

- **Biodiesel Tax Credits.** Section 202 of the House-passed amendment contains the same extension to December 31, 2010, as the versions above.
- **Conservation Tax Deduction.** Section 224 of the House-passed amendment contains the same extension to December 31, 2010, as the versions above.

During Senate consideration of amendments to the House version during June, there was difficulty reaching agreement over the budget impact of the bill, and a desire for more offsets rather than emergency spending. This began to jeopardize the prospects that the ancillary provisions such as the agricultural disaster and *Pigford* funding would remain in the bill.⁸

Agriculture in the Supplemental Appropriations Bill (H.R. 4899)

The original House-passed version of H.R. 4899 from March 24, 2010—the other vehicle carrying supplemental appropriations for agriculture—did not provide any supplemental funding for agriculture.⁹ But it did contain two rescissions from agricultural accounts that would have provided \$465 million of offsets for other programs in the bill.

- **Women, Infants and Children (WIC).** The March 24, 2010, House-passed bill would have rescinded \$361.8 million of unobligated funds that were placed in reserve for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) in the American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5). The ARRA provided \$500 million to WIC, “of which \$400,000,000 [were] placed in reserve to be allocated as the Secretary deems necessary, ... to support participation should cost or participation exceed budget estimates.”¹⁰
- **Rural Development Programs.** The March 24, 2010, House-passed bill would have rescinded \$102.7 million in budget authority from prior-year rural development appropriations (other than through ARRA) that were designated as

⁷ For background on the *Pigford* case and the settlement agreement, see CRS Report RS20430, *The Pigford Case: USDA Settlement of a Discrimination Suit by Black Farmers*, by Tadlock Cowan and Jody Feder.

⁸ Congressional Quarterly, *Budget Tracker*, July 6, 2010.

⁹ For more details about the nonagricultural provisions of the supplemental, see CRS Report R41232, *FY2010 Supplemental for Wars, Disaster Assistance, Haiti Relief, and Other Programs*, coordinated by Amy Belasco.

¹⁰ For more background on this provision in the ARRA, see CRS Report R40160, *Agriculture, Nutrition, and Rural Provisions in the American Recovery and Reinvestment Act (ARRA) of 2009*, coordinated by Jim Monke.

emergency. Besides ARRA, the only emergency appropriations in rural development have been for the “water and waste water” facilities account. These were provided to help rural communities rebuild or restore their water infrastructure after natural disasters such as hurricanes, droughts, and floods. The rescission would sweep unobligated disaster funds from several different prior-year emergency appropriations.

The Senate passed its version of H.R. 4899, the Supplemental Appropriations Act, 2010, on May 27, 2010. This bill included \$200 million of gross new budget authority and other provisions for several USDA programs. After offsets, the cost of the agricultural programs would be \$150 million for the following programs.

- **P.L. 480 “Food for Peace” Title II grants.** USDA’s Foreign Agricultural Service would receive an additional \$150 million (to supplement the FY2010 base of \$1.69 billion) for Food for Peace (P.L. 480) Title II humanitarian food aid grants. The supplemental responds to the January 2010 earthquake in Haiti. Report language (S.Rept. 111-188) also encourages USDA to use existing funds in the Bill Emerson Humanitarian Trust if future food deliveries are complicated by transportation or other logistical difficulties.¹¹
- **Farm Loan Program.** USDA has been facing higher loan demand during the financial crisis because commercial lenders have constrained their own lending practices.¹² Some USDA farm loan offices in the states have begun to deplete their FY2010 allocation to make loans. Nationally, some loan programs have used 80%-90% of their fiscal year allocation in seven months.¹³ The Senate-passed version of the supplemental would allow USDA’s Farm Service Agency to issue an additional \$950 million in loans and guarantees (on top of a nearly exhausted FY2010 base of \$5.1 billion). This additional loan authority would cost \$32 million in budget authority (\$31 million for loan subsidy plus \$1 million for administrative expenses, on the FY2010 loan subsidy base of \$141 million). **Table 2** shows the specific amounts that would be provided to the various direct and guaranteed farm loan programs.

¹¹ For more background on P.L. 480 international food aid, see CRS Report R41072, *International Food Aid Programs: Background and Issues*, by Melissa D. Ho and Charles E. Hanrahan.

¹² For more background on agricultural lending, especially during the financial crisis, see CRS Report RS21977, *Agricultural Credit: Institutions and Issues*, by Jim Monke.

¹³ USDA posts updated data on available funds remaining in the farm loan program at <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=fmlp&topic=fun>.

Table 2. USDA Farm Loans in Enacted FY2009-FY2010 Appropriations and Proposed FY2010 Supplemental Appropriations

(dollars in millions)

FSA Farm Loan Program	FY2009				FY2010				Change	
	Regular (P.L. 111-8)		Supplemental (P.L. 111-5, and P.L. 111-32) and USDA internal transfer		Regular (P.L. 111-80)		Supplemental (House-passed and Senate-passed H.R. 4899)		FY2010 Total minus FY2009 Total	
	Budget Authority	Loan Authority	Budget Authority	Loan Authority	Budget Authority	Loan Authority	Budget Authority	Loan Authority	Budget Authority	Loan Authority
Farm ownership loans										
Direct	13	222	23	360	27	650			-9	68
Guaranteed	4	1,239			6	1,500	1	300	3	561
Farm operating loans										
Direct	68	575	81	683	47	1,000	17	350	-84	92
Guaranteed (unsubsidized)	25	1,017	5	193	35	1,500	6	250	11	539
Guaranteed (interest assistance)	37	270	-17	-120	24	170	7	50	10	70
Indian tribe land acquisition	0.2	4			0	4			0	0
Indian highly fractured land loans					0.8	10			0.8	10
Boll weevil eradication loans	0	100			0	100			0	0
Conservation loans										
Direct					1.1	75			1.1	75
Guaranteed					0.3	75			0.3	75
Subtotal, FSA Farm Loan Program	147	3,428	92	1,117	141	5,084	31	950	-68	1,490
Salaries and expenses	309	—			313	—			4	—
Administrative expenses	8	—			8	—	1	—	1	—
Total, FSA Farm Loan Program	465	3,428	92	1,117	462	5,084	32	950	-63.2	1,490

Source: Compiled by CRS from P.L. 111-5; P.L. 111-8; P.L. 111-32; P.L. 111-80; H.R. 4899; and USDA Farm Service Agency, "Funding," at <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=fmlp&topic=fun>. Does not include \$75 million of budget authority proposed for emergency loans for poultry producers in H.R. 4213.

Notes: *Budget authority* reflects the cost of making loans, such as interest subsidies and default. *Loan authority* reflects the amount of loans that FSA may make or guarantee.

- **Emergency Forest Restoration Program.** USDA's Farm Service Agency would receive \$18 million for a cost-share program to restore nonindustrial private forest land that is damaged by a natural disaster occurring after January 1, 2010. The Senate provision provides expedited rulemaking procedures to facilitate implementation of this 2008 farm bill program, which has yet to begin or receive any appropriation.¹⁴
- **Rural Development.** USDA's Rural Housing Service would receive authority for an additional \$697 million in loan guarantee authority (on the FY2010 base of \$12 billion of loan guarantees) for the Section 502 Single-Family Housing Guaranteed Loan program. The cost of providing these additional guarantees would be offset by raising the guarantee fees charged to commercial banks for guarantees they receive on Section 502 loans to homeowners (from 1% to 3.5% of the principal of new loans being guaranteed). The increase in fees is permanent; the increase in loan authority is temporary. Therefore, this guaranteed loan program would be able to operate in the future with less subsidy. Demand for single-family housing loan guarantees was heavy in FY2009 during the financial crisis. By April of FY2010, heavy demand had depleted the large increase in guarantee authority over FY2009 levels (from \$6.2 billion in FY2009 to \$12 billion in the regular FY2010 appropriation).
- **Biomass Crop Assistance Program (BCAP).** In current law, the BCAP is authorized to receive "such sums as necessary" of mandatory funds from the CCC. The 2008 farm bill created BCAP to encourage the production of cellulosic feedstocks for advanced biofuels. Incentives are available for harvest and post-production storage and transportation.¹⁵ In its March 2010 baseline, CBO projects that BCAP will need \$602 million of budget authority in FY2010 and \$432 million in FY2011. The Senate-passed supplemental appropriation would create a "change in mandatory program spending" (CHIMP) by allowing no more than \$552 million in FY2010 and \$432 million in FY2011. The difference between the CBO baseline estimates and the limits placed in the supplemental would create an estimated savings of \$50 million in FY2010 and no change in FY2011 (assuming the supplemental is enacted before the final rule to implement the program is adopted and participants enroll).¹⁶
- **Food and Nutrition Service.** The Senate report language accompanying the bill (S.Rept. 111-188) directs USDA's Food and Nutrition Service (FNS) to review whether there is any need to reprogram funds within FNS for use through The Emergency Food Assistance Program (TEFAP) because of heavy demand on food banks and commodity assistance programs. No additional budget authority is provided to implement this recommendation.

To resolve differences with the Senate version, the House subsequently passed amendments to the Senate version on July 1, 2010. H.Res. 1500 adopted all of the provisions in the Senate-passed version described above and made additional supplemental appropriations and rescissions. The additions to the Senate version in this most recent House-passed version include:

¹⁴ USDA describes the program at http://www.apfo.usda.gov/Internet/FSA_File/2008fbemergencyforestsummary.pdf.

¹⁵ For BCAP, see CRS Report RL34130, *Renewable Energy Programs in the 2008 Farm Bill*, by Megan Stubbs.

¹⁶ For more on these types of changes in mandatory program spending, see CRS Report R41245, *Reductions in Mandatory Agriculture Program Spending*, by Jim Monke and Megan Stubbs.

- **Pigford Settlement.** The House version from July 1, 2010, adds \$1.15 billion for the *Pigford* settlement. This is duplicated from H.R. 4213 because of procedural uncertainty about whether *Pigford* will remain in the tax extenders bill.
- **Emergency Food Assistance.** The House version adds \$50 million for The Emergency Food Assistance Program (TEFAP) to purchase food for distribution through local food networks.
- **Rescissions.** In addition to the \$50 million offset from BCAP in the Senate-passed version above, the most recent House-passed version contains \$979 million of other rescissions from agriculture accounts.
 - **Supplemental Nutrition Program for Women, Infants, and Children (WIC).** The House version would rescind \$487 million from reserve funds for WIC, including \$362 million from the American Recovery and Reinvestment Act (ARRA) and \$125 million of other reserve funds. The first of these two WIC rescissions was in the original House bill; the second is new to the July version of the bill.
 - **Rural Development Programs.** The most recent House version would rescind a total of \$422 million from rural development. This includes \$300 million of rural broadband funding from the ARRA (out of \$2.5 billion appropriated for rural broadband in ARRA), and \$122 million in budget authority from prior-year rural development appropriations (other than through ARRA) that were designated as emergency. As discussed for the original House version, these latter rescissions are for water and wastewater facilities accounts appropriated for prior natural disasters.
 - **Natural Resources Conservation Service.** The House bill would rescind \$70 million from unobligated prior-year balances from the Natural Resources Conservation Service.

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